



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/314,206	05/19/1999	JOHN D. MENDLEIN	SONIC-007.00	4869
23483	7590	10/22/2003	EXAMINER	
HALE AND DORR, LLP 60 STATE STREET BOSTON, MA 02109			JAWORSKI, FRANCIS J	
			ART UNIT	PAPER NUMBER
			3737	
			DATE MAILED: 10/22/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/314,206

Applicant(s)

MENDLEIN ET AL

Examiner

Jaworski Francis J.

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35, 60-62, 70-78, 82 and 83 is/are pending in the application.
- 4a) Of the above claim(s) 20-29, 71-78 are is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 30--35, 60-62, 70 and 82-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3737

1. Claims 20-29, 71-78 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 20.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 12-16, 30-32 are rejected under 35 U.S.C. 103(a) as obvious based on Boyd et al (US4796632) which teaches a holder including a securing portion members (interaction of 20,22) and a rigid housing e.g. 12 thicker than and having acoustically transmissive window 18, and wherein the window is size-matched to the retained ultrasound probe, further in view of Solomon et al (US5181514). It would have been obvious in view of the latter that, in circumstances where the probe must be made small and the transducer closely apposed to the interrogation site, the interrogation surface of the probe (here a lens surface 16 where so provided) may be moved close to cover 18 where the couplant is reduced to a film 11, see cols. 3-4 bridging, in order to miniaturize the overall assembly size..

Art Unit: 3737

4. Claims 2-5, 9-12, 33, 60-62, 70, are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al in view of Solomon et al as argued above, further in view of Lyon et al (US5897503) insofar as it would have been obvious in view of the latter to manufacture probe holder portions out of injection molded plastic polymers, col. 1 lines 38-54 for strength and wear characteristics. Boyd et al per se teaches use of a flexible film and rigid holder since the film must adapt to body contours while the holder must positively engage and retain the probe without release under use. The use of a surface couplant gel in association with a transmissive window is notoriously well-known in this art. Film rigidity claiming lacks meaning absent area definitions since deflection is related to distances of peripheral securement.

5. Claims 6-8, 17-18, 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al in view of Solomon et al insofar as Boyd et al provides a planar window perimeter and the transmissive window is adaptable to become planar dependent upon fill level and the surface to which it is apposed. The probe could reasonably be about 3cm per side in normal applications. It is well-known to hygienically house medical components in containments to reduce risk of disease transmission in medical environments.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al in view of Solomon et al as applied to claim 1 above, and further in view of Takano et al insofar as elements 40,60 of the latter in one or more sets would be stackable since they contain no internal protrusions if incorporated as a design outline into Boyd et al.

Art Unit: 3737

7. Claims 82-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al in view of Solomon et al as applied to claim 1 above, and further in view of Poncy et al (US4593699). It would have been obvious in view of the latter to provide a hygienic cover sized for different probes since such covers in the past used condoms or condom-like structures such as in Poncy et al so as to standardize a cover for all usable probes..


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication should be directed to Examiner Francis J. Jaworski at telephone number (703) 308-3061.

FJJ:fjj

02 - 24 - 02


Primary Examiner
AU 3737